

UNIFORM LOCAL RULES

OF THE

UNITED STATES DISTRICT COURTS

FOR

THE NORTHERN AND THE SOUTHERN DISTRICTS

OF

MISSISSIPPI

Effective January 1, 1986,  
Including Amendments through September 1, 1998

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## **PREAMBLE**

These LOCAL RULES shall be effective January 1, 1986, and as amended July 1, 1992, July 1, 1996, and September 1, 1998; shall apply to pending cases except where injustice would result; and shall govern both civil proceedings and criminal cases, where applicable, in the United States District Courts within the State of Mississippi. These Rules concern only those matters which are of general interest to the members of the bar of this Court. Local Rules regulating the internal operation of the United States District Court for the Northern District of Mississippi and the United States District Court for the Southern District of Mississippi and offices of the Clerks of these Courts are not contained herein.

Attorneys practicing before the Courts are charged with the responsibility of knowing these LOCAL RULES, since a failure to comply may result in the imposition of appropriate sanctions by the Courts. A copy of these Rules shall be provided by the Clerk of each Court to each attorney admitted to practice before the Court and to each newly-admitted attorney at the time of his admission to practice before the Court.

All prior LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN AND SOUTHERN DISTRICTS OF MISSISSIPPI which conflict with or concern the same subject matter as the Rules contained herein are hereby repealed. In particular, the matters previously governed by NORTHERN DISTRICT LOCAL RULES CR-1 through CR-5, dealing with criminal cases, and M-1 through M-13, dealing with powers and duties of Magistrate Judges, are now governed by the terms of a STANDING ORDER adopted by the District Judges of the Northern District of Mississippi July 1, 1998. The STANDING ORDER is available from the Clerk of the Court.

All amendments to these Rules shall be by order of the Court and shall require the approval of a majority of the active district judges in each judicial district of this state.

[Amended effective September 1, 1998]



## **DIVISION SITES AND COUNTIES**

(Venue)

### **NORTHERN DISTRICT**

#### **WESTERN DIVISION Oxford**

1. Benton
2. Calhoun
3. Grenada
4. Lafayette
5. Marshall
6. Montgomery
7. Pontotoc
8. Tippah
9. Union
10. Webster
11. Yalobusha

#### **EASTERN DIVISION Aberdeen**

1. Alcorn
2. Attala
3. Chickasaw
4. Choctaw
5. Clay
6. Itawamba
7. Lee
8. Lowndes
9. Monroe
10. Oktibbeha
11. Prentiss
12. Tishomingo
13. Winston

#### **DELTA DIVISION Clarksdale**

1. Bolivar
2. Coahoma
3. DeSoto
4. Panola
5. Quitman
6. Tallahatchie
7. Tate
8. Tunica

#### **GREENVILLE DIVISION Greenville**

1. Carroll
2. Humphreys
3. Leflore
4. Sunflower
5. Washington

## SOUTHERN DISTRICT

### JACKSON DIVISION

#### Jackson

1. Amite
2. Copiah
3. Franklin
4. Hinds
5. Holmes
6. Leake
7. Lincoln
8. Madison
9. Pike
10. Rankin
11. Scott
12. Simpson
13. Smith

### EASTERN DIVISION

#### Meridian

1. Clarke
2. Jasper
3. Kemper
4. Lauderdale
5. Neshoba
6. Newton
7. Noxubee
8. Wayne

### HATTIESBURG DIVISION

#### Hattiesburg

1. Covington
2. Forrest
3. Greene
4. Jefferson Davis
5. Jones
6. Lamar
7. Lawrence
8. Marion
9. Perry
10. Walthall

### WESTERN DIVISION

#### Vicksburg

1. Adams
2. Claiborne
3. Issaquena
4. Jefferson
5. Sharkey
6. Warren
7. Wilkinson
8. Yazoo

### SOUTHERN DIVISION

#### Biloxi

1. George
2. Hancock
3. Harrison
4. Jackson
5. Pearl River
6. Stone

## **Rule 1.1      PURPOSES**

The Court has adopted these Local Rules and, within them, a *Differentiated Case Management Plan* to permit the Court to manage its civil docket in the most effective manner, to reduce costs and to avoid unnecessary delay, without compromising the independence or the authority of either the judicial system or the individual judge. The underlying principle of the plan is to make access to a fair and efficient court system available and affordable to all citizens.

## **Rule 1.2      DEFINITIONS**

For purposes of these Local Rules:

- (A) **Differentiated Case Management** [DCM] is a plan providing for management of cases based on case characteristics. This system is marked by the following features: the court reviews and screens civil case filings and channels cases to processing “tracks” which provide an appropriate level of judicial, staff, and attorney attention; civil cases having similar characteristics are identified, grouped, and assigned to designated tracks; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case.
- (B) **Judicial Officer** is either a United States District Judge or a United States Magistrate Judge.
- (C) **Court** means the United States District Judge, the United States Magistrate Judge, or Clerk of Court personnel, to whom a particular action or decision has been delegated by the Judges of the United States District Courts for the Northern and Southern Districts of Mississippi.

## **Rule 1.3      TRACKS, EVALUATION, AND ASSIGNMENT OF CASES**

- (A) **Expedited.** Cases on the Expedited Track shall have a case completion goal of nine months or less after filing of the first answer or other responsive pleading in the case.
- (B) **Standard.** Cases on the Standard Track shall have a case completion goal of twelve months or less after the filing of the first answer or other responsive pleading in the case.
- (C) **Complex.** Cases on the Complex Track shall have the discovery cut-off established in the CMP and shall have a case completion goal of no more than twenty-four months after filing of the first answer or other responsive pleading in the case.

- (D) **Administrative.** Cases on the Administrative Track shall normally be referred directly to a Magistrate Judge, with the exception of bankruptcy appeals and student loan cases. These cases will normally have no discovery and have a case completion goal of nine months.
- (E) **Mass Tort.** Cases on the Mass Tort Track shall be treated in accordance with the special management plan adopted by the Court.
- (F) **Suspension Track.** The completion goal of cases placed on the Suspension Track shall be determined at the CMC and time computations shall commence on the date the stay order is lifted.

**Rule 1.4 EVALUATION AND ASSIGNMENT OF CASES**

Evaluation Criteria. The Court shall consider and apply the following factors in assigning cases to a particular track:

**(A) Expedited:**

- (1) Legal Issues: Few and clear
- (2) Required Discovery: Limited
- (3) Number of Real Parties in Interest: Few
- (4) Number of Fact Witnesses: Up to five
- (5) Expert Witnesses: Few, if any
- (6) Likely Trial Days: Three or fewer
- (7) Character and Nature of Damage Claims: Liquidated or routine.

**(B) Standard:**

- (1) Legal Issues: More than a few, some unsettled
- (2) Required Discovery: Routine
- (3) Number of Real Parties in Interest: Up to five legal entities but which represent no more than three diverse interests
- (4) Number of Fact Witnesses: Up to ten
- (5) Expert Witnesses: Usually fewer than four
- (6) Likely Trial Days: Five or fewer
- (7) Character and Nature of Damage Claims: Routine

**(C) Complex:**

- (1) Legal Issues: Numerous, complicated and possibly unique
- (2) Required Discovery: Extensive
- (3) Number of Real Parties in Interest: More than five
- (4) Number of Fact Witnesses: More than ten
- (5) Expert Witnesses: More than three
- (6) Likely Trial Days: More than five
- (7) Character and Nature of Damage Claims: Usually requiring expert testimony.

**(D) Administrative:**

Cases that, based on the Court's prior experience, are likely to result in default or consent judgments or can be normally resolved on the pleadings or by motions. These include such cases as Social Security appeals, bankruptcy appeals, habeas corpus petitions, student loans, or any other case involving an administrative record.

**(E) Mass Torts:**

Factors to be considered for this track shall be identified in accordance with the special management plan adopted by the Court.

**(F) Suspension:**

Cases stayed pending resolution of remand motions, immunity defense motions, bankruptcy proceedings or for other good cause found by the Court.

**Rule 3.1 ORIGINAL FILINGS**

**(A) Copies of Pleadings.**

**(1) In-state private party cases.**

One copy of the complaint for the Court and one copy of the complaint for each defendant must be filed with the original complaint in all civil cases.

**(2) Service on Mississippi Secretary of State or Mississippi Insurance Commissioner.**

If process is to be served on the Mississippi Secretary of State or the Insurance Commissioner, statutory agents for service of process of the defendants, two copies of the complaint for each defendant who is being served by service on the state officials must be filed with the Clerk in addition to one copy of the complaint for the Judge.

**(3) U.S. Cases.**

In cases against any branch of the United States government, one copy of the complaint shall be filed for the United States Attorney, two copies for the Attorney General of the United States, and one copy for the Secretary or director of the branch of government listed as a defendant.

**(B) Civil Cover Sheet.**

A civil cover sheet will be filed with each original complaint or petition filed.

**(C) Filing Fees.**

Filing fees shall be paid to the Clerk upon filing of each original complaint or petition in accordance with the fee schedule maintained by the Clerk.

**Rule 4.1 CIVIL PROCESS**

**(A) Preparation.**

It is the responsibility of the plaintiff in each original case filed to prepare the summons to be served on each defendant and to present the process to the Clerk at the time of the filing of the original complaint. The signed process with seal affixed will then be returned to the attorney for service.

**(B) Service.**

The United States Marshal will no longer serve process in civil actions except government process, process in *in forma pauperis* cases, and writs of seizure and executions of judgments, unless a federal court order has issued directing service by the Marshal.

**Rule 5.1 NON-FILING OF PRE-DISCOVERY DISCLOSURES AND DISCOVERY MATERIALS.**

**(A) Pre-discovery disclosures.**

Pre-discovery disclosures of core information pursuant to UNIFORM LOCAL RULE 26.1(A) shall not be filed with the Clerk of the Court. The party serving such disclosure shall file a notice of service of pre-discovery disclosure of core information [Official Form No. 1(c)].

**(B) Depositions.**

Pursuant to the provisions of FED. R. CIV. P. 5(d), depositions in civil cases shall no longer be initially filed with the Clerk of the Court. The court reporter shall hereafter forward the original of a deposition to the party responsible for the taking of the deposition, and such party

shall retain the original and become the custodian thereof. Upon receipt of the original deposition, the party serving as custodian shall forthwith file with the Clerk a copy of the cover sheet of the deposition and a notice that all parties of record have been notified of the receipt of the deposition by the custodian [Official Form No. 1(a)].

**(C) Interrogatories and Requests for Production of Inspection.**

Interrogatories under FED. R. CIV. P. 33, and the responses thereto, and Requests for Production or Inspection under FED. R. CIV. P. 34, and the responses thereto, shall be served upon other counsel or parties, but shall not be filed with the Court. The party responsible for service of the discovery request or the response shall retain the original and become the custodian and file a notice thereof with the Court [Official Form No. 1(b)].

**(D) Filing in relation to Discovery Motions.**

If relief is sought under FED. R. CIV. P. 26(c) or 37 concerning any interrogatories, requests for production or inspection, requests for admission, answers to interrogatories or responses to requests for admissions, copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the Court contemporaneously with any motion filed under said Rules.

**(E) Filing for use at Trial or in Relation to Dispositive Motions.**

If interrogatories, requests, answers, responses or depositions are to be used at trial or are necessary to a pretrial motion which might result in a final order on any issue, the portions to be used shall be considered an exhibit and filed with the Clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

**(F) Filing for use on Appeal.**

When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the Court, or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk.

**(G) Requests for Admissions.**

Requests for admissions and the responses thereto shall be filed with the Clerk of Court.

## **Rule 5.2 PLEADINGS**

### **(A) Facsimile Filings.**

The Clerk of Court is authorized to accept for filing papers transmitted by facsimile equipment in situations determined by the Clerk to be of an emergency nature or other compelling circumstance. In those situations the original pleading upon receipt by the Clerk will be substituted for the facsimile copy and docketed by the Clerk's office.

### **(B) Certificate of Service.**

All pleadings and papers required by FED. R. CIV. P. 5 to be served on other parties shall be accompanied by a certificate of service setting forth the date and manner of service, and the names and addresses of all persons upon whom service has been made.

## **Rule 7.1 BRIEFS AND MEMORANDA**

### **(A) Trial Briefs.**

Unless otherwise directed by the Court in a particular cause, the submission of a trial brief on the merits of a case is within the discretion of the parties; provided, however, a copy of any such brief so submitted to the Court shall be simultaneously served upon counsel for the opposing party. Briefs shall not exceed thirty-five pages without prior approval of the Court.

### **(B) Motion Briefs.**

[Covered in UNIFORM LOCAL RULE 7.2]

### **(C) Citation of Authorities.**

If any brief or other paper submitted in support of a legal argument in any case cites or relies upon any authority other than a Mississippi statute, federal statute, federal rule, United States Supreme Court case, or a case reported in the Southern Reporter, Southern Reporter Second, Federal Supplement, Federal Reporter, Federal Reporter Second, Federal Reporter Third, or Federal Rules Decisions, a copy of such authority must accompany the brief or other paper citing it.

### **(D) Submission of Briefs and Memoranda.**

All briefs and authorities are to be submitted directly to the Judge who will entertain the motion and not filed in the case file with the Clerk of the Court.



**Rule 7.2        MOTION PRACTICE**

Any written communication with the court that is intended to be an application for relief or other action by the court shall be made a motion in the form prescribed by this Rule.

**(A)    Applicability.**

The provisions of this rule apply to all written motions filed in civil or criminal actions.

**(B)    Filing; Proposed Orders.**

The original of each motion, and all affidavits and other supporting documents, shall be filed with the Clerk at the division office where the action is docketed. The moving party at the same time shall mail a copy thereof to the District Judge presiding in the action at his home office mailing address, or, if the motion is referred to a Magistrate Judge, to the Magistrate Judge at his home office mailing address.

In all cases in which an immunity defense is pled, that defense shall be raised in a separate motion in accordance with this rule and the provisions of UNIFORM LOCAL RULE 26.1(10). All discovery motions must be filed so that they do not affect the discovery deadline. Unless otherwise ordered by the Case Management Plan Order, all case-dispositive motions and any motion challenging an opposing party's expert shall be filed no later than fifteen calendar days after the discovery deadline. In limine motions shall be filed not later than ten calendar days before trial and all responses shall be filed not later than five calendar days before trial.

A proposed order shall accompany the Court's copy of any motion which may be heard *ex parte* or is to be granted by consent. If the motion is referred to a Magistrate Judge, the proposed order shall be furnished to the Magistrate Judge with a copy of the motion.

**(C)    Responses.**

The original of any response to the motion, all opposing affidavits, and other supporting documents shall be filed with the Clerk at the division office where the action is docketed, and any response to the motion and all objections shall be filed and copies distributed as provided in paragraph (B) of this rule. Within the time allowed for response the opposing party shall either respond to the motion or notify the court of its intent not to respond.

**(D)    Memoranda; Documents Required with Motions; Time Limits; Failure to Submit Required Documents.**

At the time the motion is served, other than motions or applications which may be heard *ex parte* or those involving necessitous or urgent matters, counsel for movant shall mail to the

Judge in charge of the case the original and one copy of a memorandum of authorities upon which he relies. Counsel for respondent shall submit the original and one copy of a memorandum of authorities in reply, and shall do so within ten days after service of movant's memorandum. Counsel for movant desiring to submit a rebuttal memorandum may do so within five days after the service of the respondent's memorandum. Any requests for extension of time shall be made in writing to the Judge before whom the motion is noticed.

Failure to timely submit the required motion documents may result in the denial of the motion and/or the imposition of appropriate sanctions. If a party fails to respond to any motion other than a motion for summary judgment within the time allotted, the court may take the motion as confessed.

**(E) Length of Memoranda.**

Movant's original and rebuttal memoranda together shall not exceed a total of thirty-five pages, and respondent's memorandum shall not exceed thirty-five pages. Memoranda and other submissions required by paragraph (D), except as therein provided, are not to be filed with the Clerk's office.

**(F) Notice and Hearings.**

All motions shall be decided by the Court without a hearing or oral argument unless otherwise ordered by the Court on its own motion, or, in its discretion, upon written request made by counsel in an easily discernible manner on the face of the motion or response.

The scheduling of an evidentiary hearing or oral argument, where allowed, shall be set at such time and place as may suit the convenience of the Judge assigned to the case. The Court may, in its discretion, hear oral argument by telephone conference.

The Court will strive to issue its opinion within sixty days of the receipt of the last brief. The Court will periodically review the motion practice and explore innovative approaches to expedite the process of resolving motions.

**(G) Priority.**

The Court will give priority to discovery motions, discovery appeals, immunity defense motions, motions to remand, and other jurisdictional motions.

**(H) Urgent or Necessitous Matters.**

When the motion relates to an urgent or necessitous matter, counsel for the movant shall contact the courtroom deputy or the law Clerk of the Judge to whom the action has been assigned and arrange a definite time and place for the hearing of the motion. In such cases, counsel for movant shall file a written notice to the other parties of the time and place fixed by the Court for the hearing of the motion and shall serve all documents upon other parties in the same manner by which they have been delivered to the court. The Court, upon receipt of the motion, may in its own discretion direct counsel as to the submission of memoranda of authorities for the Court's consideration.

Unless a motion for a protective order to limit the scope or quash the taking of a deposition is filed within seven days of the date of the notice of deposition, it shall not be considered to be an urgent or necessitous matter.

**(I) Service.**

Movant and respondent shall serve copies of all motions, responses, and/or memoranda upon opposing counsel. When service is by mail, three days shall be added to the periods prescribed in paragraph (D) of this rule.

**(J) Court Reporters.**

If the hearing of a motion, whether at a regular motion day, pretrial conference, or special setting, requires the presence of a court reporter, the party requesting a court reporter shall obtain prior approval from the office of the District or Magistrate Judge before whom the motion is noticed.

**(K) Untimely Motions.**

Any motion served beyond the motion deadline imposed in the Scheduling Order entered pursuant to Rule 16.1(A)(4) may be denied solely because the motion is served untimely. Parties are encouraged to file all non-dispositive motions prior to the discovery deadline.

**Rule 11.1 SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS**

The signing of a pleading, motion or other paper presented for filing by any counsel in accordance with FED. R. CIV. P. 11 is deemed to signify approval of the contents of the pleading by all co-counsel. In addition, counsel's name, address, telephone number and Attorney Identification Number shall be typed or printed under his signature. If the attorney is admitted to the bar of the Mississippi Supreme

Court, the Attorney Identification Number shall be the same as the number assigned by the Mississippi Bar. Otherwise, the Attorney Identification Number shall be the number assigned by this Court.

Documents filed by a party not represented by counsel shall be signed by the party and shall give the same information.

Each attorney and pro se litigant has a continuing obligation to apprise the court of any address change.

**Rule 11.2      SANCTIONS—UNREASONABLE DELAYS**

Delays, or continuances, or waste of the Court's time occasioned by the failure of a party to follow the procedures outlined in this rule may result in the imposition of appropriate sanctions, including assessment of costs and attorney's fees. In this regard, counsel shall notify the appropriate Judge immediately if a submitted motion is resolved by the parties or the case in which the motion has been pending is settled.

**Rule 11.3      SANCTIONS—FRIVOLOUS MOTIONS OR OPPOSITION**

A patently frivolous motion or opposition to a motion on patently frivolous grounds may result in the imposition of appropriate sanctions, including the assessment of costs and attorney's fees.

**Rule 16.1      CASE MANAGEMENT CONFERENCE AND SCHEDULING ORDER**

**(A)      Early Assessment and Pretrial Case Management.**

**(1)      Early Meeting of Counsel.** No later than five days prior to the case management conference, counsel are required to meet, by telephone or in person, and confer regarding the following matters:

**(a)      Principal Issues.**

- (i)**      Identify the principal factual and legal issues in dispute;
- (ii)**     Discuss the principal evidentiary basis for claims and defenses;
- (iii)**    Determine the DCM case track provided by UNIFORM LOCAL RULES 1.3 and 1.4, days required for trial, and whether the case should be considered for ADR procedures.

- (b) **Additional Disclosure.** Discuss whether voluntary additional disclosure of documents or other information should be made, and if so, when.
- (c) **Motions.** Identify any motions whose early resolution would have a significant impact on the scope of discovery or other aspects of the litigation.
- (d) **Discovery.** Consistent with case track recommendations, determine what additional discovery is required beyond the voluntary disclosures and initial depositions of the parties, with designated time limitations.
- (e) **Preparation of a proposed case management plan** and scheduling order setting forth track and/or ADR recommendations, deadlines for amendments to pleadings and joinder of additional parties, completion of discovery, designation of experts, and filing of motions, including motions for summary judgment and motions in limine.
- (f) **Jurisdiction by a Magistrate Judge.** Discuss whether all parties consent to jurisdiction by a Magistrate Judge under 28 U.S.C. § 636(c).
- (g) **Settlement.**

(2) **The Case Management Conference.** Within sixty days of the filing of the first answer or other responsive pleading in an action, or on the first date thereafter available on the judicial officer's calendar, the judicial officer will conduct the case management conference as contemplated by FED. R. CIV. P. 16, which normally shall be attended by lead trial counsel for each party. The court shall consider recommendations of counsel, evaluate each civil case in accordance with UNIFORM LOCAL RULE 1.4, and assign each case to one of the case management tracks at the case management conference

For purposes of this provision, a motion to dismiss for insufficiency of service of process pursuant to FED. R. CIV. P. 12(b)(4) or (b)(5) shall not be considered as a responsive pleading. The following matters will be discussed:

- (a) **Principal Issues.** Identify, at least tentatively, the principal factual and legal issues in dispute.
- (b) **Alternative Dispute Resolution.** Identify the alternative dispute resolution procedure which counsel intend to use, or report specifically why no such procedure would assist in the resolution of the case.
- (c) **Jurisdiction by a Magistrate Judge.** Indicate whether all parties consent to jurisdiction by a Magistrate Judge under 28 U.S.C. § 636(c).
- (d) **Disclosure.**
  - (i) Review the parties' compliance with their disclosure obligations.
  - (ii) Consider whether to order additional disclosures.
- (e) **Motions.**
  - (i) Determine whether to order early filing of any motions that might significantly affect the scope of discovery or other aspects of the litigation.
  - (ii) Provide for the staged resolution, or bifurcation of issues for trial consistent with FED. R. CIV. P. 42(b).
- (f) **Discovery.**
  - (i) Determine the plan for at least the first stage of discovery.
  - (ii) Impose limitations on each discovery tool and, if appropriate, on subject areas, types of witnesses, and/or time periods to which discovery should be confined.
- (g) **Settlement.** Determine the status of settlement negotiations. The judicial officer may require confidential settlement memoranda by the parties in advance of the case management conference.
- (h) **Scheduling.**
  - (i) Fix time limits to join other parties, amend the pleadings, complete any additional disclosures, conclude discovery, file

motions, and for all other such matters that may be covered by this Rule. All counsel are required to make a realistic estimate of the time needed for discovery, but all requested periods of discovery shall remain under the supervision of the Court, and lengthened or shortened as the case dictates, and the Magistrate Judge shall enter a scheduling order accordingly. Extensions of deadlines will be granted by the District of Magistrate Judge only upon a showing of good cause. Ordinarily, the scheduling order contemplated by this Rule shall provide that all motions, with the exception of evidentiary motions in limine, shall be served no more than fifteen calendar days after the date scheduled for completion of discovery.

- (ii) Fix the dates or intervals for supplementation of disclosures.
- (iii) Fix the date for the next conference with, or hearing by, the court, if any.
- (iv) Fix the date or the time period (by month and year) for final pretrial conference and commencement of the trial, if possible.

**(3) Attendance at Case Management Conference.** Participating attorneys will be required to have authority to bind the parties on matters, including settlement, which may be discussed at the case management conference. The judicial officer may require the attendance or availability of the parties, as well as counsel.

**(4) The Case Management Order.** No more than ten calendar days after the case management conference, the judicial officer will enter the case management order. The order shall include the determination of track assignments, whether the case is suitable for reference to an alternative dispute resolution [ADR] program, the type and extent of discovery, the setting of a discovery deadline, and deadlines for filing motions. The order shall specify that its provisions, including any deadlines, having been established with the participation of all parties, can be modified only by order of the judicial officer, and only upon a showing of good cause supported by affidavits, other evidentiary materials, or references to pertinent portions of the record.

(5) **Costs and Expenses.** The court shall use its authority to impose costs and expenses for violation of any provisions of the case management and scheduling order, including violations of the duty to disclose and/or supplement discovery.

**(B) Case Status Report.**

Not later than fifteen days after the deadline for filing pretrial motions, the parties shall submit a joint report to the Magistrate Judge advising of the anticipated length of trial, a list of pending motions, and the progress of settlement negotiations. Any motion not listed will be considered moot and denied. If not previously scheduled, the trial date will promptly be established upon receipt of the report, or the trial judge will be advised of the status of the case. The court will also consider any modification of a previously scheduled trial date. Failure to timely submit the report will result in a conference date being established before the court which counsel must attend in person and show cause why sanctions should not be imposed.

**(C) Settlement Conference.**

- (1) The initial settlement conference will be conducted at the case management conference. Counsel for any party may request at any time thereafter that the Magistrate Judge assigned to the case schedule a settlement conference as soon as practical.
- (2) In addition to lead counsel for each party, the Court may require that a representative of each party with authority to bind that party for settlement purposes be present in person or immediately available by telephone at the settlement conference.
- (3) The notice of the settlement conference shall set forth the format of the conference and shall include any requirement for information or documents which must be submitted to the Magistrate Judge prior to or at the conference as the Magistrate Judge may direct.
- (4) No statement, oral or written, made by any party to the Court or counsel(s) opposite pursuant to this rule, shall be admissible or used in any fashion in the trial of the case or any related case.



**(D) Cases Excluded from Scheduling Requirements.**

The Court has determined that the following categories of actions are excluded from the scheduling requirements of these Rules. Accordingly, unless the District or Magistrate Judge assigned to the case determines that a scheduling order is desirable, no scheduling order shall be entered in any case falling within one or more of the following categories: *habeas corpus* actions; proceedings under 28 U.S.C. §2255; actions seeking review of administrative determinations, including, but not limited to, actions under 42 U.S.C. § 405(g); actions to collect unpaid student loans; loan foreclosure proceedings; proceedings to condemn real or personal property under the power of eminent domain; bankruptcy appeals; and *pro se* actions by prisoners attacking conditions of confinement under 42 U.S.C. § 1983 and related statutes.

**(E) Alternative Dispute Resolution Programs.**

- (1) Alternative Dispute Resolution [ADR] techniques should be encouraged in appropriate cases.
  - (a) At the case management conference, the judicial officer will inquire about ADR. Counsel must be prepared to advise the court on each party's position on the different ADR resources available.
  - (b) The Clerk of the Court will maintain and make available to counsel a list of all arbitration, mediation or other ADR agencies, and other resources. The court may in its discretion direct the Clerk to delete any person, agency or other entity from the list.
  - (c) In the event that all parties agree to ADR or ADR is directed by the Court, the judicial officer may in the exercise of his or her sound discretion stay all or part of the case and hold the case management and scheduling order in abeyance during the pursuit of ADR.
- (2) Early Neutral Evaluation and Settlement Conferences should normally be accomplished in the ordinary course of the case management conference and any subsequently scheduled status conference or pretrial conference.
- (3) The Court may also utilize non-binding summary jury trials, non-binding bench trials, mini-trials, settlement weeks, and other innovative settlement devices.

**Rule 16.2 FINAL PRETRIAL CONFERENCES AND PRETRIAL ORDERS**

**(A) Cases in Which Conference to be Held; Scheduling; Role of Magistrate Judge.**

A final pretrial conference is to be held in all civil actions, subject only to the exceptions hereinafter noted, pursuant to a calendar periodically prepared by the Clerk at the direction of the District or Magistrate Judge and furnished by mail to counsel for all parties not less than thirty days in advance, or pursuant to a scheduling order. The judicial officer assigned to try the case will attempt to conduct the pretrial conference. However, if unable to schedule timely the pretrial conference, the judicial officer assigned to the case may direct that the conference be held before another judicial officer. This conference shall be scheduled not more than forty-five days prior to trial.

Whenever possible, final pretrial conferences shall be separately scheduled at a date, place, and hour and for such period of time as the subject matter of the particular case may require, but in all events final pretrial conferences shall be scheduled in such manner as not to cause undue or inordinate inconvenience to counsel scheduled for final pretrial conferences in other cases.

**(B) When Conference May be Dispensed With; Pretrial Order Still Required; Contents.**

The Court recognizes that a formal final pretrial conference may not be needed in all cases. In any civil case the District or Magistrate Judge, either on his or her own motion or by request of the parties made not later than ten days prior to the scheduled conference, may determine that a final pretrial conference is unnecessary and excuse the parties from attendance, but in any event the jointly agreed pretrial order shall be submitted to the Judge before whom the conference was to have been held and all requirements of this rule shall be complied with at or before the time and date set for the final pretrial conference, unless the Judge shall fix another date for submission of the pretrial order. In the event no formal final pretrial conference is held, counsel shall prepare and present in person or by mail to the appropriate Judge a jointly agreed upon final pretrial order [Official Form No. 2] which shall set forth:

- (1) Any jurisdictional question.
- (2) Any questions raised by pending motions, including motions in limine.
- (3) A concise summary of the ultimate facts claimed:
  - (i) by plaintiff(s);
  - (ii) by defendant(s); and
  - (iii) by other parties.

- (4) Facts established by pleadings or by stipulations or admissions of counsel.
- (5) Contested issues of fact.
- (6) Contested issues of law.
- (7) Exhibits (except documents for impeachment only) to be offered in evidence by the parties respectively. In the event counsel cannot in good faith stipulate the authenticity and/or admissibility of a proposed exhibit, the order shall identify the same and state the precise ground of objection.
- (8) The names and addresses of witnesses for all parties, indicating which **WILL** be called in the absence of reasonable notice to opposing counsel to the contrary and which **MAY** be called as a possibility only. Neither rebuttal nor impeachment witnesses need be listed.

Such witness lists shall indicate whether the witness will give fact or expert testimony, or both, and whether the witness will testify as to liability or damages, or both, and whether their testimony will be live or by deposition.

In the event the qualification of any expert witness is in issue, the qualifications of any such expert witnesses are to be typed and retained as possible exhibits at trial of the case and copies are to be attached to the pretrial order.

- (9) Any requested amendments to the pleadings.
- (10) Any additional matters to aid in the disposition of the action.
- (11) The probable length of the trial.
- (12) Full name, address, and phone number of all counsel of record for each party.

**(C) Submission by Magistrate Judge to Trial Judge.**

If the pretrial conference is held before a Magistrate Judge who will not try the case, the original jointly agreed upon pretrial order, upon approval by the Magistrate Judge, shall be forwarded to the Trial Judge for entry and then shall be filed with the Clerk as a part of the

record in the action, and conformed copies thereof shall be furnished by the Clerk to counsel for each party.

**(D) Duty of Counsel to Confer; Exhibits; Matters to be Taken up at Conference; Sanctions.**

The following provisions of this rule apply regardless of whether the pretrial order is entered by stipulation of the parties or following a formal final pretrial conference:

Counsel shall resolve by stipulation all relevant facts which are not in good faith controverted and shall exchange with counsel for all other parties true copies of all exhibits proposed to be offered in evidence, other than those to be used for impeachment purposes only, and shall stipulate the authenticity of each exhibit proposed to be offered in evidence by any party unless the authenticity of any such exhibit is in good faith controverted.

All exhibits are to be premarked, and lists briefly describing each are to be exchanged among counsel and presented to the Court at the beginning of the trial, in quadruplicate.

At any formal final pretrial conference, the Judge shall consult at the final pretrial conference with counsel regarding proposed stipulations of facts and contested issues of fact and law, and inquire as to the reasonableness of any party's failure to stipulate and agree thereon or as to the authenticity and/or admissibility of any exhibits. If the Court determines that any party or his attorney has failed to comply with this rule, such party or his attorney shall be subject to appropriate sanctions.

**(E) Depositions.**

Depositions to be introduced in evidence other than for rebuttal or impeachment purposes shall be abridged prior to pretrial conference or submission of the order, as follows:

- (1) The offering party shall designate by line and page the portions of the deposition it plans to offer.
- (2) The opposing party or parties shall designate by line and page any additional portions of the deposition to be offered and shall underline in *red* any portions of the deposition previously designated by any other party to which objection is made.
- (3) The offering party shall thereafter underline in *red* any portions of the deposition previously designated by any other party to which objection is made.

- (4) Videotaped depositions shall be edited prior to trial as required by the pretrial order.

**(F) Procedure at Final Pretrial Conference.**

In addition to the foregoing, the following provisions apply to the formulation of a pretrial order by formal conference before the Magistrate Judge, or in any appropriate case, the District Judge.

**(1) Counsel Shall Attend; Sanctions.**

All scheduled conferences shall be attended by counsel of record who will participate in the trial and who has full authority to speak for the party and enter into stipulations and agreements. Counsel shall have full authority from their clients with respect to settlement and shall be prepared to advise the Judge as to the prospects of settlement. The Judge may require the attendance or availability of the parties, as well as counsel. Should a party or his attorney fail to appear or fail to comply with the directions of this rule, an *ex parte* hearing may be held and a judgment of dismissal or default or other appropriate judgment entered or sanctions imposed.

**(2) Preparation for the Conference.**

Counsel shall comply with the requirements of subdivisions (D) and (E) of this rule as soon as practicable prior to the pretrial conference and submit to the Court and counsel opposite a proposed pretrial order setting forth his proposals for inclusion in the pretrial order in accordance with subdivision (B) of this rule and any instructions which the Court may in its discretion issue.

**(3) Preparation of the Pretrial Order.**

After the final pretrial conference has concluded, a pretrial order faithfully setting out the stipulations and agreements of the parties and the other proceedings had at the conference shall be prepared by counsel in conformity to Official Form No. 2 and submitted to the court for entry. The individual responsible for preparation of the pretrial order and the deadline for its submission shall be fixed by the judicial officer before whom the conference was held. If a Magistrate Judge has conducted the conference on behalf of a District Judge, he shall require counsel to make such corrections as he deems necessary before transmitting the order to the District Judge.

**(4) Additional Conferences.**

After the final pretrial conference has been conducted, the Court will not hold a further pretrial conference save for those exceptional cases in which the District or Magistrate Judge determines that an additional conference would materially benefit disposition of the action.

**(G) Effect of Pretrial Order.**

The pretrial order shall control the subsequent course of the action unless modified by the Trial Judge at the trial or prior thereto, upon oral or written motion, to prevent manifest injustice.

**(H) Conference Scheduling; Conflicting Settings.**

In scheduling all pretrial conferences of any nature, the Judge shall give due consideration to conflicting settings, but not to the mere convenience of counsel. If a scheduling order has been entered in an action, no final pretrial conference shall be held until after the discovery deadline has expired. Failure to complete discovery within such deadline shall not be an excuse for delaying the final pretrial conference, nor for securing continuance of a case which has been calendared for trial.

**(I) Discretion of District Judge.**

Notwithstanding any of the provisions of this rule to the contrary, a District Judge may, in his discretion, in any case assigned to him, conduct any or all pretrial conferences, and may enter or modify a scheduling order.

**Rule 16.3 CONFLICTING SETTINGS AND REQUESTS FOR CONTINUANCES**

When the Court has set a case for trial, other hearing, or pretrial conference which conflicts with a court appearance of counsel in other courts, the first case having a firm setting shall control, whether such first case is set by this or some other court, and other courts are expected to yield to the prior firm setting, as this Court will do when other cases have prior settings in other courts, consistent with the policy adopted by the State-Federal Judicial Council. When a case has not been reached as scheduled, the Court, in resetting the case, shall take into account the obligations of counsel on the basis of the first-setting rule. When a conflict does develop, it is the absolute duty of counsel to immediately advise the Court of the later setting in order that the conflict might be resolved and calendars cleared for other settings. It is essential for counsel and the Court or Courts involved to resolve potential conflicts at the earliest practical date.

**Rule 23.1 CLASS ACTIONS**

In all lawsuits filed as class actions, the class plaintiff must, not later than sixty days after filing of answer, move for a FED. R. CIV. P. 23 class determination. The named plaintiff has the burden of establishing by way of pleadings and evidentiary materials that a class action is appropriate and of defining all relevant classes and subclasses.

Although the Court may deem it necessary to schedule an evidentiary hearing on the class aspects of any case, it is anticipated that in the usual situation pleadings, affidavits, other evidentiary materials, and legal memoranda submitted by both sides should be an adequate basis for the Court to make a class action determination. Interlocutory procedures, when appropriate, will be tailored to fit each case.

Counsel for all parties must be aware of the general time schedule above set forth and promptly prepare whatever material may be relevant to class action maintainability *vel non* and class definitions. Until the issue of class certification has been decided, counsel shall give priority to discovery directed to the class issue.

If additional time is desired for preparation on the Rule 23 issue(s), a motion setting up grounds for the requested delay must be served within the above time period. Delays will be granted only for good cause.

**Rule 26.1 DISCOVERY CONTROL****(A) Pre-Discovery Disclosure of Core Information/Other Cooperative Discovery Devices.****(1) Initial Disclosure.**

A party asserting a claim shall serve with the complaint, counterclaim, cross-claim, or third party claims, and in response to responsive pleadings, the following, in addition to the disclosures required by FED. R. CIV. P. 26(a)(1):

- (a) the name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to the claims asserted, identifying the subjects of the information sufficiently to enable the opposing party to determine if a statement or deposition should be taken, including a witness who is retained or specifically employed to provide expert testimony in the case or whose duty as an employee of the party regularly involves giving expert testimony;

provided, however, than an expert who has been retained or specifically employed by a party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, need not be disclosed,

- (b) a copy of all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to the claims asserted; provided, however, that if such documents, data compilations and tangible things are voluminous, or if other circumstances exist that would make their production unduly burdensome or expensive, the party may describe by category and location all such documents, data compilations and tangible things in its possession, custody or control and shall provide the opposing party a reasonable opportunity to review all such documents, data compilations and tangible things, at the site at which they are located or maintained. A party withholding information claimed privileged or otherwise protected shall submit a privilege log which contains at least the following information: name of the document; description of the document; date; author(s); recipient(s); and nature of the privilege. To withhold materials without such notice subjects the withholding party to sanctions under FED. R. CIV. P. 37 and may be viewed as a waiver of the privilege or protection.
- (c) A computation of any category of damages claimed by the party, making available for inspection and copying as under FED. R. CIV. P. 34, the documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

**(2) Reciprocal Disclosure.**

Within forty-five days of service of a claim asserted by any party, or when any responsive pleading is due, whichever is later, the responding party shall serve similar disclosures on all parties relevant to all claims and defenses, which shall include inspection as under FED. R. CIV. P. 34, of any insurance agreement under which any person carrying on an insurance business may be liable to



satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

**(3) Reply Disclosure.**

Within fifteen days of the service of the responding party's disclosures of persons/information and documents relevant to any affirmative matter asserted, the opposing party shall make similar disclosures as to the affirmative matters.

**(4) Expert Witnesses.**

As soon as it is obtained, but in any event no later than the time specified in the case management order, a party shall disclose to other parties the identity of any person who may be used at trial to present evidence under FED. R. EVID. 702, 703, or 705. This disclosure shall, with respect to a witness who is retained or specifically employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report prepared and signed by the witness. For purposes of this section, a written report is "prepared and signed" by the expert witness when the witness executes the report after review. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years. Any attempt to designate an expert without providing full disclosure information as required by this rule will not be considered a timely expert designation and may be stricken upon proper motion or sua sponte by the court. Discovery regarding experts shall be completed within the discovery period. The Court will allow the subsequent designation and/or discovery of expert witnesses only upon a showing of good cause. A party is required to designate treating physicians as experts pursuant to this rule, but is only required to provide the facts known and opinions held by the treating physician and a summary of the grounds therefor. A party is required to supplement an expert's opinion in accordance with FED. R. CIV. P. 26(e) and subsection (A)(7) of this Rule as if a discovery request had been made.

**(5) Failure to Disclose.**

A party that without substantial justification fails to disclose information required by subsection (A) of this Rule shall not, unless such failure is harmless, be permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed. If a party fails to make a disclosure required by this section, any other party shall move to compel disclosure and for appropriate sanctions pursuant to FED. R. CIV. P. 37(a). The failure to take immediate action and seek court intervention if necessary when a known disclosure violation occurs will be considered by the Court in determining the appropriate sanctions to be imposed regarding a subsequent motion filed pursuant to FED. R. CIV. P. 37(c). All parties shall make their initial disclosures based on the information then reasonably available to them. The parties are not excused from making such disclosures because they have not fully completed their investigations of the case or because they challenge the sufficiency of another party's disclosures or because another party has not made its disclosures.

**(6) Discovery Prior to the Case Management Conference.**

After the completion of the initial disclosure requirements of UNIFORM LOCAL RULE 26.1(A) (1) and (2), any party may orally depose another party prior to the case management conference. If necessary for meaningful settlement discussions at the case management conference, party depositions shall be taken and, by agreement of the parties or order of the court, the deposition of a key witness, treating physician or other expert may also be taken prior to the case management conference. Any party or party's attorney who is substantially unprepared to participate in settlement discussions at the case management conference may be sanctioned pursuant to the provisions of FED. R. CIV. P. 16(f).

Prior to the Case Management Conference, each party shall be entitled to begin serving on each party fifteen interrogatories, fifteen requests for production of documents, and fifteen requests for admissions. Interrogatories, requests for production of documents and requests for admissions should be limited to succinct questions. Except for this initial discovery, no further discovery shall be permitted until entry of the case management plan unless otherwise authorized by the Court. Discovery undertaken prior to the Case Management

Conference shall be included in the numerical limitations established in the CMP. When responding to interrogatories, requests for production, and requests for admission, the responding party shall, as part of his responses, set forth immediately preceding the response the question or request to which such response is given.

**(7) Supplementation of Disclosures.**

A party who has made a pre-discovery disclosure is under a duty to supplement or correct the disclosure to include information thereafter acquired. A party is under a duty to supplement at appropriate intervals and in no event later than the discovery cut-off established by the scheduling order.

**(8) Removed Cases.**

In removed cases where no motion to remand or motion to refer the case to the bankruptcy court is filed, the plaintiff shall file the initial disclosure required by this rule within thirty days of an action being removed, and all other deadlines will be determined accordingly.

However, the filing of a motion to remand or a motion to refer the case to the bankruptcy court shall stay all discovery not relevant to the remand or referral issue and stay the parties' obligations to make disclosures pending the Court's ruling on the motion. The movant shall submit to the Magistrate Judge an order granting the stay at the time the remand motion or referral motion is filed. The movant shall promptly notify the Magistrate Judge of any such motion and submit an order lifting the stay.

Within fifteen days of the order lifting the stay, the plaintiff shall file the initial disclosures and all other deadlines will be determined accordingly. A case management conference shall be scheduled within sixty days after the stay is lifted.

**(9) Transfer Cases.**

Within fifteen days of an action's being transferred to the district, the plaintiff shall file the initial disclosure required by the rule and all other deadlines will be determined accordingly.

**(10) Immunity Defense Cases.**

In all cases in which an immunity defense is pled, that defense shall be raised in a separate motion as expeditiously as possible after the filing of the complaint. The filing of an immunity defense motion shall stay all discovery not relevant to the immunity issue and stay the parties' obligation to make further disclosures pending the Court's ruling on the motion issue, including any appeal. The moving party shall submit to the Magistrate Judge an order granting the stay at the time the immunity defense motion is filed. The plaintiff shall promptly notify the Magistrate Judge of a decision on the immunity defense motion and submit an order lifting the stay. Within fifteen days of the order lifting the stay, the remaining defendant(s) shall file the initial disclosures and all other deadlines will be determined accordingly. A case management conference shall be scheduled within sixty days of the order lifting the stay.

**(11) Completion of Discovery.**

After entry of the case management plan and scheduling order, discovery shall proceed as permitted by the FED. R. CIV. P.

**(12) Exceptions.**

The above procedures and rules shall not apply to:

- (a) any case assigned to the administrative track or pro se prisoner cases;
- (b) in actions seeking temporary restraining orders until ten days after entry or denial of the order;
- (c) complaints filed with counsel's affidavit that his or her representation was accepted too close to the running of the applicable statute of limitations to permit investigation for required disclosure; however, plaintiff shall comply within thirty days of the filing of the complaint or such additional time as the court may allow;
- (d) the United States of America as a defendant to the extent that the United States shall serve required disclosures when its answer is due under FED. R. CIV. P. 12(a), rather than within forty-five days of service of the complaint. No other exceptions shall be allowed except upon motion with notice and order of the court.

- (B) **Setting Discovery Deadlines.** A firm discovery deadline will be set by the judicial officer presiding over the case management conference consistent with the track assignment. The discovery deadline or cut-off date is that date by which all responses to written discovery shall be due according to the FED. R. CIV. P. and by which all depositions shall be concluded. Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule, and discovery requests that seek responses or schedule depositions which would otherwise be answerable after the discovery cut-off are not enforceable except by order of the Court for good cause shown. The parties may not, by stipulation and without the consent of the Court, extend the discovery cut-off date.
- (C) **Attorney/Party Signatures for Requests to Extend Discovery Deadlines.** The Court in its discretion may require the requesting attorney and party to sign requests to extend discovery deadlines.
- (D) **Limits on the Use of Discovery.** The Court should limit the number of depositions, interrogatories, requests for production and requests for admission to the needs of each particular case consistent with the track assignment. In computation of the number of interrogatories or requests propounded, each subpart of a question shall be counted as a separate interrogatory or request.
- (1) **Expedited.** Interrogatories, requests for production of documents, and requests for admissions should be limited to fifteen succinct questions or requests. Depositions should be limited to the parties and no more than three fact witness depositions per party without prior approval of the Court.
  - (2) **Standard.** Interrogatories, requests for production of documents, and requests for admissions should be limited to thirty succinct questions or requests. Depositions should be limited to the parties and no more than five fact witness depositions per party without prior approval of the Court.
  - (3) **Complex.** The case management order should provide for discovery consistent with the needs of the case.
  - (4) **Administrative.** No discovery should be the norm.

- (5) **Mass torts.** The case management order should provide for discovery consistent with the needs of the case.

(E) **Motion Practice in the Context of Discovery.** All discovery motions must be filed so that they do not affect the discovery deadline. This subject is otherwise governed by UNIFORM LOCAL RULE 7.2

**Rule 30.1 VIDEOTAPED DEPOSITIONS**

The videotaping of a deposition in addition to the preparation of the usual written transcript shall be permitted as a matter of course provided the order or stipulation authorizing such deposition contains the following requirements:

- (1) The videotaped deposition of a witness shall also be taken in the usual manner by a qualified shorthand or machine reporter and a written transcript prepared for use in subsequent court proceedings.
- (2) The time and place of the taping of the deposition shall be set by notice served in the same manner as for a regular deposition, except it shall state that a videotaped deposition is being taken.
- (3) The videotape operation technician shall certify as to the correctness and completeness of the videotape.
- (4) At the beginning of the deposition all persons present shall be shown in the visual portion of the deposition.
- (5) During the deposition the witness shall be recorded in as near to courtroom atmosphere and standards as possible. There will not be any zoom-in procedures to unduly emphasize any portion of the testimony, but zoom-in will be allowed for exhibits and charts to make them visible to the jury. The camera shall focus as much as possible on the witness. The attorneys may be shown on introduction, the beginning of examination and during objections.
- (6) It shall not be necessary for a witness to view and/or approve the videotape of a deposition.

- (7) Any party may purchase a duplicate original or edited tape from the video operator technician at any time.
- (8) Videotaped depositions shall be edited prior to trial as required by the pretrial order.

## **RULE 30.2 DEPOSITIONS OF EXPERTS**

The video taping of the testimony of expert witnesses is encouraged.

## **Rule 35.1 PHYSICAL AND/OR MENTAL EXAMINATIONS**

Every motion for the physical and/or mental examination of persons in civil actions which is not accompanied by a consent order setting forth the time, place and scope of such examination and the person selected to perform the same shall be accompanied by a statement executed by counsel for the moving party.

Such statement shall set forth the efforts initiated by counsel to agree upon the details, time, place and scope of a mental or physical examination and the person proposed to perform the same and that such efforts have not been successful.

## **Rule 37.1 DISCOVERY VIOLATIONS**

### **(A) *Good Faith Certificate***

Prior to service of a discovery motion, all counsel shall be under a duty to confer in good faith to determine to what extent the issue in question can be resolved without court intervention. A *Good Faith Certificate* [Official Form No. 4] shall be filed with all discovery motions, with a copy to the Magistrate Judge. This certificate shall specify whether the motion is unopposed, and if opposed, by which party(s) and the method by which the matter has been submitted to the Magistrate Judge for resolution. The certificate must be signed by all counsel (fax signatures are acceptable). If a party fails to cooperate in the attempt to resolve a discovery dispute or prepare the *Good Faith Certificate*, the filed motion shall be accompanied by an affidavit by the moving party detailing the alleged lack of cooperation and requesting appropriate sanctions.

**(B) Motions Must Quote Disputed Language**

Motions raising issues concerning discovery, in accordance with FED. R. CIV. P. 33, 34, 36, and 37, shall quote verbatim each interrogatory, request for production, or request for admission to which the motion is addressed, and shall state:

(i) the specific objection,

(ii) the grounds assigned for the objection (if not apparent from the objection itself), and

(iii) the reasons assigned as supporting the motion, and shall be written in immediate succession to one another. Such objections and grounds shall be addressed to the specific interrogatory, request for production, or request for admission and may not be general in nature.

**(C) Uniform Local Rule 26.1 Violation Order**

Any party or his counsel who fails to abide by these rules shall be subject to the sanctions allowed by FED. R. CIV. P. 37, which sanctions may be levied by execution and entry of Official Form 5 by the assigned District or Magistrate Judge.

**Rule 37.2 MOTION TO LIMIT OR QUASH A DEPOSITION**

The filing of a motion for a protective order to limit or quash a deposition does not operate as a stay of the deposition. It is incumbent upon the party seeking the protection of the court to obtain a ruling on the motion prior to the scheduled deposition.

**Rule 38.1 DEMAND FOR JURY**

Within ten days after the service of the answer in any civil case originally filed in this Court, any party may request a jury in writing by endorsing such request conspicuously upon the complaint or answer, or by separate written request. A designation of jury trial on the civil cover sheet shall not be sufficient for purposes of this rule. A request for a jury otherwise presented will be addressed to the sound judicial discretion of the Court. Any case removed from the Circuit Courts of Mississippi shall be designated for jury trial; any case removed from the Chancery Courts of Mississippi shall be designated for non-jury trial.



**Rule 42.1      CONSOLIDATION OF CASES**

Cases involving a common question of law or fact may be consolidated upon order of the Court, the rule being that the case bearing the lower or lowest number will control the designation of the District or Magistrate Judge before whom the motion to consolidate is noticed and determine the Judge before whom the case or cases will be tried. Consolidation of cases from different divisions of this Court shall be controlled by the earliest filing date. The dismissal of the case bearing the lower or lowest number prior to the hearing on a motion to consolidate shall not affect the operation of this rule. The Judge initially assigned the lower or lowest numbered case, even if that case has been dismissed, shall be the Judge before whom the case or cases will be tried.

**RULE 45.1      WITNESSES**

Witnesses for trial in paupers' cases must be compelled by subpoena or their voluntary attendance procured. The tendering of the witness fee and mileage is required even if the party requesting the subpoena, except in habeas corpus cases and proceedings under 28 U.S.C. § 2255, has been granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915, since, with those exceptions, no public funds are available for that purpose.

A prospective witness who is incarcerated will be compelled to attend court only if the party desiring his attendance demonstrates to the Court by means of an affidavit that the incarcerated witness has personal knowledge of relevant facts. Upon such a showing, the Court will issue a writ of *habeas corpus ad testificandum* to cause the custodian of the witness to produce the witness in Court.

**Rule 48.1      SIZE OF JURIES**

The jury shall consist of not fewer than six or more than twelve members in the discretion of the Judge presiding over the trial in a particular civil case.

**Rule 51.1      REQUESTS FOR JURY INSTRUCTIONS**

Special requests for instructions shall be submitted by all parties not later than ten days prior to the date for which trial is set in any civil case. Each such request shall be on a separate sheet of paper, shall be numbered (as P-1, *et seq.* and D-1, *et seq.*) and shall be supported by appropriate citation of authority on separate sheets of paper, and a copy thereof shall be furnished to opposing counsel at the time the special requests are submitted to the Court. Where good cause is shown to exist, counsel

may, with the permission of the Court, submit additional written requests during the progress of the trial.

For the convenience of the court and the parties, jury instructions may be accompanied by an IBM-compatible, WORDPERFECT format, computer disk containing the proposed instructions.

This rule does not contemplate any requirement of counsel to submit to the Court standard or boilerplate type instructions which are routinely given by the Court. The purpose of this rule is to give the Court an opportunity to study those requests for instruction tailored to the specific case in trial.

#### **Rule 54.1 JURY COSTS**

##### **(A) Postponement in Advance of Trial**

Whenever a civil action scheduled for jury trial is required to be postponed or is settled or otherwise disposed of in advance of the actual trial, then jury costs, including mileage and per diem, may, in the Court's discretion, be assessed equally against the parties and their counsel or otherwise assessed as directed by the Court, unless the Court is notified at least one full business day prior to the day on which the action is scheduled for trial so that the jurors can be notified that it will not be necessary for them to attend.

##### **(B) Postponement after the Case is Called.**

Whenever a civil action is postponed, settled or otherwise disposed of after the case is called and prior to the verdict of the jury, the Court may assess jury costs, as described in subparagraph (A), equally against the parties and their counsel, or against the party responsible for the postponement or late settlement.

#### **Rule 54.2 TAXATION OF COSTS AND MOTIONS FOR ATTORNEY'S FEES**

##### **(A) Bill of Costs.**

In all civil actions in which costs are allowed, pursuant to 28 U.S.C. § 1920, in the final judgment as defined in FED. R. CIV. P. 54(a), the prevailing party to whom costs are awarded shall serve the bill of costs not later than thirty days after entry of judgment. Except as provided herein, and unless the Court directs otherwise, a motion for review of or objecting to the taxation of costs shall be subject to the requirements of UNIFORM LOCAL RULE 7.2. Except as provided by statute or rule, an appeal of the final judgment shall not affect the taxation of costs.

**(B) Motions for Attorney's Fees.**

- (1) All motions for attorney's fees to be awarded by law as part of the costs of the action, whether provided for by statute or otherwise, shall be served by the prevailing party to whom costs are awarded not later than fourteen days after entry of judgment.
- (2) All motions for attorney's fees sought as substantive relief, and not as costs of the action, shall be served by the prevailing party within ten days after entry of judgment as provided by FED. R. CIV. P. 59(e).
- (3) In all motions for attorney's fees, movant shall, by affidavit of counsel, address the following factors relating to the determination of a reasonable allowance:
  - (a) The time and labor required, which shall include an itemized statement of all time expended by counsel, together with a brief description of the services performed during each period of time itemized.
  - (b) The novelty and difficulty of the questions.
  - (c) The skill requisite to perform the legal services properly.
  - (d) The preclusion of other employment by the attorney due to acceptance of the case.
  - (e) The customary fee.
  - (f) Whether the fee is fixed or contingent.
  - (g) Time limitations imposed by the client or the circumstances.
  - (h) The amount involved and the results obtained.
  - (i) The experience, reputation, and ability of the attorneys.
  - (j) The "undesirability" of the case.

(k) The nature and length of the professional relationship with the client.

(l) Awards in similar cases.

**(C) Proceedings after Appeal.**

In all actions in which an appeal is perfected, where further action is required by this Court on an award of attorney's fees, or where the Court of Appeals directs this Court to award attorney's fees, as part of the costs or otherwise, all motions related to such action shall be filed not later than thirty days after the issuance of the mandate by the Court of Appeals. The taxation by this Court of costs on appeal, pursuant to FED. R. APP. P. 39(e), shall not be affected by proceedings under this Rule.

**Rule 72.1 AUTHORITY OF A MAGISTRATE JUDGE**

A Magistrate Judge is a judicial officer of the District Court. A full-time Magistrate Judge of this district is designated to perform, and may be assigned, any duty allowed by law to be performed by a Magistrate Judge. A part-time Magistrate Judge of this district is designated to perform, and may be assigned, any duty allowed to be performed by a Magistrate Judge under 28 U.S.C. § 636(a)-(c). Unless otherwise provided by law or court order, performance of a duty by a Magistrate judge will be governed by the provisions of these rules that would apply if the duty were performed by a District Judge. In performing a duty, a Magistrate Judge may determine preliminary matters; require parties, attorneys, and witnesses to appear; require briefs, proofs, and argument; and conduct any hearing, conference, or other proceeding the Magistrate Judge deems appropriate.

**(A) Special Designation to Exercise Consent Authority.**

Upon consent of the parties, a full-time Magistrate Judge of this district may conduct any and all proceedings in a civil matter and order entry of judgment in the matter. Upon consent of the parties and in accordance with their specific written request, a part-time Magistrate Judge of this district may perform such duties if the additional requirements of 28 U.S.C. § 636(c)(1) are met.

**(B) Special Designation to Conduct Misdemeanor Trials.**

A Magistrate Judge of this district may try persons accused of misdemeanor offenses and sentence persons convicted of misdemeanor offenses.

**Rule 72.2 PROCEDURES BEFORE A MAGISTRATE JUDGE — SUPPLEMENTAL PROVISIONS**

**(A) Matters which a Magistrate Judge is Empowered to Hear and Determine.**

- (1) In any matter which a Magistrate Judge is empowered to hear and determine, a party aggrieved by the ruling of the Magistrate Judge may appeal the Magistrate Judge's ruling to the District Judge to whom the action is assigned. Such an appeal may be perfected by serving and filing within ten days of the Magistrate Judge's ruling an application for review of such ruling, specifying the grounds upon which the Magistrate Judge's ruling is claimed to be erroneous. All such applications for review shall be filed and served upon the other party or parties as in other cases, and copies thereof shall be promptly transmitted to the District Judge to whom the action is assigned and to the Magistrate Judge. The opposing party or parties shall, within five days of service of the application for review, either file a response to the application or notify the District Judge that they do not intend to respond.
- (2) No ruling of a Magistrate Judge in any matter which he is empowered to hear and determine shall be reversed, vacated or modified on appeal unless the District Judge shall determine that the findings of the Magistrate Judge are clearly erroneous, or that the Magistrate Judge's ruling is clearly erroneous or contrary to law.

**(B) Effect of Ruling by a Magistrate Judge.**

A Magistrate Judge's ruling or order in a matter heard and determined by the Magistrate Judge is the court's ruling and will remain in effect unless and until reversed, vacated, modified, or stayed. The filing of a motion for reconsideration does not stay the Magistrate Judge's ruling or order, and no such stay occurs unless ordered by the Magistrate Judge or a District Judge. A stay application must first be presented to the Magistrate Judge who issued the ruling or order. If the Magistrate Judge denies the stay, the applicant may thereafter request a stay in writing from the District Judge to whom the case is assigned. Any application to the District Judge for a stay shall have appended thereto the certificate of counsel that application for the stay sought has been made to and denied by the Magistrate Judge.

**(C) Response to Objection to a Magistrate Judge's Order.**

If a party files an objection to a Magistrate Judge's order determining a pretrial matter not dispositive of a party's claim or defense, another party may serve and file a response to that objection within five days after being served with a copy of the objection.

**(D) Matters Upon Which a Magistrate Judge is Required to Submit a Report and Recommendations.**

In all matters upon which a full-time Magistrate Judge is required to submit a report and recommendations he shall transmit a copy thereof to the District Judge to whom the action is assigned at the time he or she files the same with the Clerk. Each party shall have ten days after service of a copy of the Magistrate Judge's report and recommendations in which to serve and file written objections to the report or recommendations of the Magistrate Judge, unless a greater or shorter time is fixed by the Magistrate Judge or District Judge. All objections shall be filed with the Clerk and served upon the other parties, as in other cases; copies thereof shall also be forwarded to the District Judge to whom the action is assigned and to the Magistrate Judge. Within five days of service of the objection(s), the opposing party or parties shall either file a response or notify the District Judge that they do not intend to respond to the objection(s). All such responses shall be served and filed as required in the case of objections.

**(E) Rule Not Applicable to Consent Cases.**

Nothing contained in this rule shall apply to any civil action referred to a Magistrate Judge by consent of the parties pursuant to UNIFORM LOCAL RULE 73.1, for trial and entry of judgment, from and after the date of such reference.

**Rule 72.3 ASSIGNMENTS TO A MAGISTRATE JUDGE**

In a case referred to a Magistrate Judge, the Magistrate Judge will perform the duties assigned by the Court under court rule, plan, order, or other document. A Magistrate Judge will perform other duties when those duties are assigned by the Court or a District Judge under Court rule, plan, order, or other document. The duties assigned to a Magistrate Judge by the Court, and the manner of their distribution and assignment, are specified in a standing order establishing such duties and procedures, available in the Clerk's office.

**Rule 72.4 NOTIFYING PARTIES OF A NON-AUTOMATIC ASSIGNMENT**

If not effected directly by the Clerk of the Court under Court rule, plan, order, or other document, reference of a case or duty to a Magistrate Judge will be by order signed by a District Judge. The Clerk will notify all parties to the action of each reference by a District Judge.

**Rule 72.5 REFERRAL TO MAGISTRATE JUDGE**

All pretrial motions in civil cases are hereby referred to a Magistrate Judge for hearing and determination with the exception of motions for injunctive relief, to remand, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, to involuntarily dismiss an action, motions in limine regarding evidentiary matters, and for extensions of time with regard to matters pending before a District Judge. Upon entry of a Pretrial Order, all motions thereafter served shall be submitted to the assigned trial judge.

**Rule 72.6 HEARING OF NONDISPOSITIVE MOTIONS WHEN ASSIGNED MAGISTRATE JUDGE IS UNAVAILABLE**

When the Magistrate Judge assigned to an action is unavailable because of absence from the district, illness, or other cause, or in a bona fide emergency as the result of which any party would be prejudicially delayed by presenting the matter to such Magistrate Judge, any other full-time Magistrate Judge may hear and determine any motion presented by a party, other than a motion enumerated as an exception in 28 U.S.C. § 636 (b)(1)(A) and UNIFORM LOCAL RULE 72.5.

**Rule 73.1 PROCEDURES BEFORE A MAGISTRATE JUDGE—CIVIL CONSENT CASES****(A) Notice of Consent Option.**

Upon the filing of a complaint in a civil case, the Clerk of Court will give plaintiff or plaintiff's counsel a court-approved notice informing the parties that they may consent to have a Magistrate Judge:

(1) conduct all further proceedings in the case and order the entry of final judgment;  
or

(2) hear and determine one or more case dispositive motions designated by the parties. The notice will include a form that the parties or their attorneys must sign if they consent to the exercise of dispositive authority by the assigned Magistrate Judge. Plaintiff or plaintiff's counsel must attach a copy of the notice to each copy of the complaint and a summons served. Additional copies of the notice may be furnished to the parties at later stages of the proceedings. Either the assigned District Judge or the assigned Magistrate Judge may discuss the consent option with the parties. The parties are free to withhold consent without adverse substantive consequences, and any notice

or other communication from the Court under authority of this rule will so advise them.

**(B) Execution of Consent.**

If all parties in a civil case consent to have the Magistrate Judge exercise the authority described in UNIFORM LOCAL RULE 73.1(A), plaintiff or plaintiff's counsel must file with the Clerk of Court the notice described in that rule, signed by all parties or their attorneys. The Clerk must not accept the notice without all such signatures, and neither the notice nor its contents may be made known or available to a judge if the notice lacks any signatures required under this rule. A party's decision regarding consent must not be communicated to a judge before a fully executed consent notice is filed.

**(C) Time for Consent.**

Consent in a civil matter under UNIFORM LOCAL RULE 73.1(A) may be entered at any time before trial of the case.

**(D) Reference of Civil Consent Case.**

Upon the filing of a notice of consent executed as described in UNIFORM LOCAL RULE 73.1(B), the Clerk of Court will send the notice to the District Judge to whom the case is assigned. The District Judge may then refer the case to the assigned Magistrate Judge for all further proceedings.

**(E) Party Added After Consent Occurs.**

A party added to a civil case after reference of the case to a Magistrate Judge on consent will be given an opportunity to consent to the continued exercise of case-dispositive authority by the Magistrate Judge. The Clerk of Court will give the party an unexecuted copy of the notice described in UNIFORM LOCAL RULE 73.1(A). If the party chooses to consent, it must, within ten days of its appearance, file with the Clerk the notice denoting its consent signed by the party or its attorney. The case will be returned to the assigned District Judge for all further proceedings unless and until this notice is properly signed and filed.

**Rule 77.1 CALENDARS**

**(A) Court Always Open.**

There are no terms of Court in the District Courts of Mississippi.



**(B) Sessions.**

This Court will sit as designated from time to time by the Judge who will conduct each particular session. There shall be at least one session of this Court in each division in each calendar year if justified by the volume of business.

**Rule 83.1 ATTORNEYS: ADMISSION AND CONDUCT**

**(A) Admission of Attorneys.**

**(1) General Admission.**

Any attorney who is a member of the Mississippi State Bar shall satisfy the following requirements for admission to this Court:

- (a) The attorney must produce a photocopy of the certification of admission to practice before the Mississippi Supreme Court;
- (b) The attorney must be sponsored by a member of the bar of this Court who shall certify that the applicant is a member in good standing of the Mississippi Bar and is familiar with the UNIFORM LOCAL RULE and the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT; and
- (c) The attorney must be presented to the Court only after filing his or her documentation with the Clerk, paying the admission fee and signing the oath. An applicant may then be presented to a District or Magistrate Judge of this Court for formal admission, which may be accomplished in open court or chambers at any time convenient to the Judge.

**(2) Admission by Comity.**

An attorney who is in good standing as a member of the bar of another state may be admitted *pro hac vice* by comity, upon introduction and proper showing of his qualifications, to handle a particular case before the court in association with an attorney of his choice who is admitted generally to practice before this Court. Such non-resident attorney may be thus admitted to practice as an associate of a resident attorney in a particular case without taking the oath for admission to the bar and without paying any fee therefor. Out-of-state attorneys who are admitted to practice *pro hac vice* shall certify that they have read and are familiar with the provisions of the UNIFORM LOCAL RULES.

**(3) Attorneys Representing the United States.**

Attorneys representing the United States or any of its departments, agencies or employees shall be permitted to handle such cases in this Court upon proper introduction to the Court by the United States Attorney of this District or one of his assistants and without being admitted to the bar of this Court.

**(4) Non-resident Lawyers Who Are Not Members of the Mississippi Bar.**

Any non-resident attorney who is not a member of the Mississippi Bar and not authorized to practice before the Mississippi Supreme Court may be admitted to practice in this Court upon compliance with the following conditions:

- (a) The attorney must submit a certified copy of a certificate from the United States District Court of the jurisdiction from which he or she comes showing that he or she is duly authorized to practice in such court and is in good standing;
- (b) The attorney must be sponsored by a member of the bar of this Court, who shall certify as to the good character and reputation of the applicant and that the non-resident attorney is familiar with the local rules and the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT; and
- (c) The attorney must be presented to the Court only after filing his or her documentation with the Clerk of this Court, paying the admission fee and signing the oath. The applicant may then be presented to a District or Magistrate Judge of the Court for formal admission, which may be accomplished in open court or chambers at any time convenient to the Judge. The Court may require any non-resident attorney to associate local counsel residing within this State, who shall be authorized to sign and accept service of pleadings and other papers on behalf of the non-resident attorney and appear at emergency hearings at the direction of the Court.
- (d) Any non-resident attorney admitted to practice under Section (4) of this subdivision who subsequently becomes a Mississippi resident shall no longer be eligible to practice before this Court unless, within nine months after becoming a resident of Mississippi, such attorney is admitted to practice law in Mississippi, becomes a member of the Mississippi Bar, and is admitted to practice before the Mississippi Supreme Court. Such attorney shall within such

time file with the Clerk a photocopy of the attorney's certificate of admission to practice in the Mississippi Supreme Court. If no such certificate is filed within that time the attorney's admission to practice before this Court shall stand revoked, unless within the same period of time the attorney shall file with the Clerk an affidavit establishing the existence of good cause why such revocation should not occur. The Court will then determine whether or not the attorney's admission to practice should be revoked.

**(B) Appearances.**

**(1) Requirement of Local Counsel.**

When a party appears by attorney, each complaint, answer, motion, application or other papers on behalf of such party shall be signed by at least one attorney of record admitted to practice in the Court in which the action is pending.

**(2) Designation of Lead Counsel.**

In any civil action in which a single party is represented by multiple counsel, the initial pleading filed on behalf of such party shall designate a single attorney as lead counsel for receipt of copies of all papers required by FED. R. CIV. P. 5, to be served upon such party, as well as for receipt of all notices and orders of the Court.

**(3) Withdrawal by Attorneys.**

When an attorney enters an appearance in any action pending in this Court, he shall remain as counsel of record until released by formal order of the Court. An attorney may be released in any case only on motion duly noticed to all parties, including the client, and presented to the District or Magistrate Judge to whom the case is assigned, together with a proposed order authorizing the withdrawal of counsel.

**(4) Communication with Jurors.**

Upon the return of a verdict by the jury in any civil or criminal action, neither the attorneys in the action nor the parties may, in the courtroom or elsewhere, express to the members of the jury their pleasure or displeasure with the verdict. After the jury has been discharged, neither the attorneys in the action nor the parties shall at any time or in any manner communicate with the jury or any member thereof regarding the verdict. Provided, however, that if any attorney believes in good faith that the verdict may be subject to legal challenge, such attorney may apply *ex parte* to the trial judge for permission to interview one or more members of the jury regarding any fact or circumstance claimed to support such legal challenge. If satisfied that good cause

exists, such judge may grant permission for the attorney to make the requested communication and shall prescribe the terms and conditions under which the same may be conducted.

**(C) Discipline and Reinstatement.**

**(1) Original Discipline.**

The Court may, after thirty days notice and an opportunity to show cause to the contrary, and after hearing, if requested, censure or reprimand any attorney who practices before it for conduct unbecoming a member of the Bar or for failure to comply with these rules, THE MISSISSIPPI RULES OF PROFESSIONAL CONDUCT, or any rule of the Court. If such conduct or failure to comply shall be flagrant the Court may, after notice, opportunity to show cause, and hearing as above provided, revoke or suspend the attorney's admission to practice before the Court. Such action by the Court shall be reported by the Clerk of the Court to the Executive Director of the Mississippi Bar, or the appropriate official of the Bar of any non-resident attorney admitted to practice in this Court.

If this Court is of the opinion that the conduct complained of affords reasonable grounds for more stringent disciplinary action, including suspension or disbarment, the matter shall, in the case of a member of the Mississippi Bar, be referred to the Mississippi Bar for such action as is appropriate under the provisions of MISS. CODE ANN. §§ 73-3-301, *et seq.* (1972), or subsequent amendments. In case the attorney is not a member of the Mississippi Bar, the matter shall be referred to the appropriate disciplinary authority of the Bar of which he or she is a member.

Nothing herein shall be construed to limit the inherent disciplinary power of this Court, including the power of a district judge to immediately suspend a member of the bar convicted of a felony in a case heard before him.

**(2) Reciprocal Discipline.**

When it is shown to the Court that any member of its Bar has been suspended or disbarred from practice by any other Court of record, such member shall be subject to suspension or disbarment by the Court. The disciplinary action shall be initiated by a show-cause rule issued by the Court, notifying the member of and describing the disciplinary proceedings conducted in the other jurisdiction and requesting that the

member appear and show cause why he or she should not be suspended or disbarred from practice before the Court. The member shall be afforded thirty days within which to show cause why such member should not be suspended or disbarred; provided, however, that the time for response may be extended by the Court for proper reason. The member's response to the show-cause rule shall be limited to claims of (i) lack of procedural due process in the original proceedings, and (ii) lack of substantial evidence to support the factual findings. Upon response to the show-cause rule, and after hearing, if requested, or upon expiration of the period allowed for response if no response is made, the Court may enter an appropriate order in which it may impose discipline, including, but not limited to, the same discipline as was administered by the other jurisdiction. Lack of procedural due process in the original proceeding shall not preclude original disciplinary action by the Court, as provided in subparagraph (1) hereof.

**(3) Reinstatement.**

No application for relief from suspension or reinstatement after disbarment will be considered by this Court unless the applicant can show that he or she is an attorney in good standing with the Mississippi Bar or with the jurisdiction in which he or she may have been disbarred. Any attack upon the denial of such readmission or relief from suspension shall be limited to claims of (i) lack of procedural due process in the reinstatement proceeding of the other jurisdiction, and (ii) lack of substantial evidence to support the factual findings. Upon the applicant's showing of good standing, the Court may vacate or continue the disbarment or suspension, or diminish the suspension, as may be appropriate.

**(D) Attorney Admission Fee; Presentation to any District or Magistrate Judge.**

In addition to the fee for admission set by the Judicial Conference of the United States, an applicant for admission pursuant to paragraphs (A)(1) and (A)(4) shall also pay a fee of \$10 for the court library fund. An attorney seeking admission under paragraphs (A)(1) and (A)(4) may be presented to any District or Magistrate Judge of the Northern or Southern Districts for formal admission.

**Rule 83.2      ASSIGNMENT OF JUDGES**

The assignment of Judges in civil cases shall be in accordance with the internal procedures adopted by each court.

**Rule 83.3      EXHIBITS****(A)      Custody and Disposition of Exhibits.**

All exhibits, including models, diagrams, or other material things, filed in a proceeding shall be physically removed by the parties who filed them, in the event no appeal is perfected, within sixty days from the date of final disposition of the case by this Court, or, in the event an appeal is perfected and thereafter disposed of by the United States Court of Appeals for the Fifth Circuit, within thirty days after receipt of the judgment, other process or certificate disclosing disposition of the case by that Court. In the event the above referenced exhibits are not removed from the custody of the Clerk within the required time, the Clerk may cause the same to be destroyed or otherwise disposed of.

**(B)      Custody of Sensitive Exhibits.**

Sensitive exhibits shall include, but are not necessarily limited to, drugs, weapons, currency, exhibits of a pornographic nature, and articles of high monetary value. Sensitive exhibits offered or received in evidence shall be maintained in the custody of the Clerk during the hours in which the Court is in session. At the conclusion of each daily proceeding and at the noon recess, the Clerk shall return all sensitive exhibits to the offering counsel or party who shall then be responsible for maintaining custody and the integrity of such exhibits until the next session of Court, at which time they shall be returned to the Clerk, unless otherwise ordered by the Court.

Following the return of a verdict in a jury case, or the entry of a final order in a non-jury case, sensitive exhibits shall be handled and/or disposed of in the same manner as other exhibits pursuant to this Rule.

**Rule 83.4      PHOTOGRAPHS AND BROADCASTING**

The taking of photographs in the courtroom or its environs or broadcasting by radio, television or other means from the courtroom or its environs during the progress of or in connection with judicial proceedings, whether or not the Court is actually in session, is prohibited. The environs of the courtroom shall extend to all interior portions, including hallways, stairs and elevator space of the building in which such courtroom is located.

However, the restriction against taking photographs in the courtroom may be relaxed, in the discretion of the presiding judge, in proceedings exclusively devoted to the induction into office of a newly appointed judge or in naturalization proceedings.

**Rule 83.5      MISSISSIPPI RULES OF PROFESSIONAL CONDUCT**

Any attorney who makes an appearance in any case in the Courts is bound by the provisions of the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT and subject to discipline for violation thereof.

**Rule A.1      ADMIRALTY**

**(A)      Applicability.**

These rules apply to procedure in claims governed by the SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS OF THE FEDERAL RULES OF CIVIL PROCEDURE [ADMIRALTY SUPPLEMENTAL RULES] in the United States District Courts in the State of Mississippi.

**(B)      Deposit of Fees with Marshal.**

No process *in rem* in an action provided for in the ADMIRALTY SUPPLEMENTAL RULES shall be served, except on behalf of the United States, or on special order of the Court, unless the party seeking the same shall deposit with the Marshal for this district such sums as may be required by the Marshal as a partial advance against attachment and custodial costs.

**(C)      Regarding In Rem Admiralty and Maritime Jurisdiction.**

In any action *in rem*, invoking the Admiralty and Maritime jurisdiction of the courts of the United States, if the Plaintiff shall procure a person, firm or corporation to serve as consent keeper or substitute consent keeper of the property seized, any United States District or Magistrate Judge of Mississippi, may sign an order providing for the arrest of the property permitting the Marshal to deliver the property seized to said consent keeper. Further, it shall be the responsibility of the Plaintiff to assure that there is sufficient insurance coverage for the vessel while in the possession of a consent keeper or substitute custodian. The insurance required by the Marshal does not protect the vessel while said property is in the custody of a consent keeper or a substitute custodian.

However, upon a verified written showing by the plaintiff that a District or Magistrate Judge is not available and there exists the danger of losing opportunity for service unless process issue forthwith, such order may be signed by the Clerk of Court or any deputy Clerk, upon

specific designation therefor by the Judge to whom the case is assigned. Further, the plaintiff shall verify that the matter has not been previously presented to any judicial officer.

**(D) Post-Seizure Hearing.**

After the arrest, seizure or attachment of any property under the ADMIRALTY SUPPLEMENTAL RULES, any party asserting an interest in such property may move for a hearing and prompt relief by the Court upon any issue concerning the propriety of the arrest, seizure or attachment.

**(E) Release of Seizures.**

Property seized by the Marshal may be released as provided by the ADMIRALTY SUPPLEMENTAL RULES, or pursuant to paragraph (D) of this Rule. On being advised to do so by counsel for Plaintiff, the Marshal, guard service, consent keeper, substitute custodian, or person, firm or corporation having the legal custody of the property arrested may release it by taking a receipt from the Master, or Mate of, or agent for the property owner and file the same in the cause of action as soon as possible. *See* Official Form No. 3. No property seized by the Marshal may be directed to be released by Plaintiff's counsel until the Marshal is notified of the pending release and appropriate arrangements are made with the Marshal for the payment of all costs and charges.

**(F) Advertisement of Seizures.**

If a vessel or other property seized under maritime process is not released within ten days following seizure, notice of the seizure shall be published in a newspaper of general circulation in the district three times a week for two consecutive weeks, said notice to begin not later than twenty days following seizure.

**(G) Verification of Pleadings.**

Every complaint and claim under the ADMIRALTY SUPPLEMENTAL RULES shall be verified on oath or affirmation by a party, or an officer of a corporate party. If no party (or corporate officer thereof) is within the district, verification of a complaint or claim may be made by an agent, attorney-in-fact or attorney of record, who shall state briefly the sources of his knowledge, information and belief, declare that the document verified is true to the best of his knowledge, information and belief, state the reason why verification is not made by the party or corporate officer, and that he is authorized so to act. Any such verification will be deemed to be that of the party, as if verified personally. Any interested party may move, with or without a request for stay, for a personal oath of a party or all parties, or that of a corporate officer. If required by the Court, such verification shall be procured by commission or as otherwise ordered.



**(H) Jury Trials in Cases Containing Claims Within the Purview of Rule 9(h).**

In any case in which a maritime claim within the meaning of FED. R. CIV. P. 9(h), is asserted and a jury trial is also demanded, each Plaintiff shall elect at or before the pretrial conference or at such other time as the Court may direct, whether he will proceed under Rule 9(h) and the ADMIRALTY SUPPLEMENTAL RULES if appropriate, or proceed without benefit of the ADMIRALTY SUPPLEMENTAL RULES so as to have the issues tried by jury.

If no election is made by a Plaintiff at the pretrial, said Plaintiff will be deemed to have elected to have trial by jury, and any and all process issued at Plaintiff's request pursuant to the ADMIRALTY SUPPLEMENTAL RULES will be quashed five days after the Clerk has given notice to all counsel of record.

**(I) Intervention.**

- (1) For purposes of this rule, the word "plaintiff" shall include any party asserting a claim for affirmative relief.
- (2) Whenever a vessel or other property is seized, attached or arrested and is in the custody of the Court, anyone asserting a maritime lien or a writ of foreign attachment against the vessel or property may proceed only by intervention, unless otherwise ordered by the court. At the time of filing of a complaint in intervention, counsel for intervening parties are required to ascertain the names and addresses of other counsel of record in the proceedings, and are required to serve a copy of the complaint in intervention upon all counsel of record, and shall file a certificate with the Clerk setting forth the names and addresses of counsel served, method of service and the date thereof.
- (3) Any party asserting a maritime lien or a writ of foreign attachment may intervene within the time specified by these Rules without the filing of a motion for leave to intervene where a vessel or other property has been arrested or attached and it or the proceeds of sale thereof are within the jurisdiction of the Court.
- (4) Intervenors under this rule shall be liable for costs together with the party originally effecting seizure on any reasonable basis determined by the Court. Intervenors may be required by the Marshal to advance their share of reasonable accrued costs and reasonable unaccrued advance costs, giving due deference to the respective amounts of the various claims. Relief from such assessment may be granted by the Court upon motion.

- (5) Release of seizure or dismissal by the party originally effecting seizure shall not quash the seizure if there remain pending claims by intervenors, unless by unanimous consent of intervenors or order of Court.
- (6) All claims in intervention are to be filed within thirty days after sale of a vessel or property. Claims not timely filed are to be paid out of the proceeds of a sale only after the payment of all timely filed valid claims and costs.

**(J) Notice of Sale.**

Notice must be given by the Marshal of the sale of property by order of this Court; and such notice must be by advertisement in a newspaper of general circulation within the division of this District in which the sale will take place, unless otherwise ordered by the Court. Such notice shall be published three times a week for two consecutive weeks with the last date of publication not more than twenty nor less than five days immediately preceding the sale. In addition thereto, publication may be made elsewhere or in specialized trade publications. The notice of sale shall state that last date on which claims may be filed against the vessel or property or proceeds of sale of same, as provided in subparagraph (I)(6) of this rule.

Unless extraordinary circumstances exist, no vessel shall be sold within less than thirty days after same has been seized.

**(K) Judicial Sale; Marshal's Return.**

Upon the payment of the proceeds of sale of seized property into the registry of the Court, the Clerk shall forthwith direct the custodian of the vessel or seized property to send written notice within five days to all persons known by him to have claims for charges incurred while the vessel or property was in the custody of Court, and shall notify such persons of the necessity of filing claims within ten days of the mailing of such notice.

**(L) Confirmation of Sale.**

In all sales by the Marshal of this Court pursuant to orders of sale under the ADMIRALTY SUPPLEMENTAL RULES, the Marshal shall report to the Court the fact of sale, the price brought, and the name of the buyer. If within five days after the sale [*See* FED. R. CIV. P. 6(a) for computation of time] no written objection is filed, the sale shall automatically stand confirmed if the buyer has performed the terms of his purchase.

**(M) Taxation of Costs.**

If costs shall be awarded to any party, the following may be taxed as costs in the case, in the manner provided for a civil action:

- (1) The reasonable premium or expenses paid on all bonds or stipulations or other security by the party to whom costs are awarded.
- (2) Reasonable wharfage or storage charges while in custody of the Court.
- (3) Costs of publication of notices under applicable rules of Court.
- (4) Any other reasonable expenses determined by the Court on motion and after hearing to have been necessarily incurred and proper as costs.

**APPENDIX**  
**OFFICIAL FORMS**

Form 1(a) - Notice of Receipt of Original Deposition .....	51
Form 1(b) - Notice of Service of Interrogatories or Requests for Production of Documents or Responses Thereto .....	52
Form 1(c) - Notice of Service of Pre-Discovery Disclosure Information .....	53
Form 2 - Pretrial Order .....	54
Form 3 - Receipt of Seized Property .....	59
Form 4 - Good Faith Certificate .....	60
Form 5 - Uniform Rule 26.1 Violation Order .....	61

**UNITED STATES DISTRICT COURT**  
\_\_\_\_\_**DISTRICT OF MISSISSIPPI**  
\_\_\_\_\_**DIVISION**

PLAINTIFF

v.

No. \_\_\_\_\_

DEFENDANT

**NOTICE OF RECEIPT OF ORIGINAL DEPOSITION**

TO: All Counsel of Record

Notice is hereby given, pursuant to Uniform Local Rule 5.1(B) of the United States District Court, that the original of the deposition of \_\_\_\_\_, taken at the instance of \_\_\_\_\_ in the above styled and numbered cause(s), has been received by the undersigned and will be retained by the undersigned as custodian. Pursuant to Uniform Local Rule 5.1(B), a copy of the cover sheet of said deposition is attached hereto, marked "Exhibit A."

DATED: \_\_\_\_\_.

\_\_\_\_\_  
John Doe  
Attorney for \_\_\_\_\_

**UNITED STATES DISTRICT COURT**  
\_\_\_\_\_**DISTRICT OF MISSISSIPPI**  
\_\_\_\_\_**DIVISION**

PLAINTIFF

v.

No. \_\_\_\_\_

DEFENDANT

**NOTICE OF SERVICE OF INTERROGATORIES OR  
REQUESTS FOR PRODUCTION OF DOCUMENTS  
OR RESPONSES THERETO**

TO: All Counsel of Record

Notice is hereby given, pursuant to Uniform Local Rule 5.1(c) of the United States District Court, that \_\_\_\_\_, has this date served in the above entitled action: (Mark and complete all applicable items below)

( ) Interrogatories to \_\_\_\_\_.

( ) Requests for Production of Documents to \_\_\_\_\_.

( ) Responses to Interrogatories of \_\_\_\_\_.

( ) Responses to Requests for Production of Documents of \_\_\_\_\_.

The undersigned retains the original(s) of the above paper(s) as custodian thereof pursuant to Uniform Local Rule 5.1(c).

DATED: \_\_\_\_\_.

\_\_\_\_\_  
John Doe  
Attorney for \_\_\_\_\_

**UNITED STATES DISTRICT COURT**

\_\_\_\_\_**DISTRICT OF MISSISSIPPI**

\_\_\_\_\_**DIVISION**

PLAINTIFF

v.

No. \_\_\_\_\_

DEFENDANT

**NOTICE OF SERVICE OF  
PRE-DISCOVERY DISCLOSURE INFORMATION**

Notice is hereby given that \_\_\_\_\_ has this date disclosed to

\_\_\_\_\_ the information required by Uniform Local Rule

26.1(A).

DATED: \_\_\_\_\_.

\_\_\_\_\_  
John Doe

Attorney for \_\_\_\_\_

**UNITED STATES DISTRICT COURT**  
\_\_\_\_\_**DISTRICT OF MISSISSIPPI**  
\_\_\_\_\_**DIVISION**

PLAINTIFF

v.

No. \_\_\_\_\_

DEFENDANT

**PRETRIAL ORDER**

1. Choose the appropriate one of the following alternative paragraphs:

[If a pretrial conference was held]

( ) A pretrial conference was held in this matter on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_, at \_\_\_\_\_ AM/PM at the United States Courthouse at \_\_\_\_\_ before United States Magistrate Judge \_\_\_\_\_.

[If the final pretrial conference was dispensed with by the court pursuant to Uniform Local Rule 10(b)]

( ) The final pretrial conference having been dispensed with by the magistrate judge, the parties have conferred and agree upon the terms of this pretrial order as follows.

2. The following counsel appeared:

- a. For the Plaintiff:

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
-------------	----------------	------------------

- b. For the Defendant:

<u>Name</u>	<u>Address</u>	<u>Telephone</u>
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- c. For Other Parties:

<u>Party</u>	<u>Lawyer's Name</u>	<u>Address</u>	<u>Telephone</u>
--------------	----------------------	----------------	------------------



3. The pleadings are amended to conform with this pretrial order.
4. The following claims (including claims stated in the complaint), counter-claims, third-party claims, cross-claims, etc., have been filed:
5. The basis for jurisdiction is:

There is the following jurisdictional question: (If there is none, write in "None")

6. There are pending motions are follows: (If there are none, write in "None")
7. The following is a concise summary of the ultimate facts as claimed by:
  - a. Plaintiff:
  - b. Defendant:
  - c. Other Parties (attach additional pages, if necessary)

8. The following facts are established by the pleadings or by stipulation or admission.

9. The contested issues of fact are as follows:

10. The contested issues of law are as follows:

11. The following is a list and brief description of all exhibits (except exhibits to be used for impeachment only) to be offered in evidence by the respective parties. Each exhibit has been marked for identification and examined by all counsel.

A. TO BE OFFERED BY THE PLAINTIFF:

The authenticity and admissibility in evidence of these exhibits has been stipulated. If the authenticity and/or admissibility of any exhibit is objected to, the exhibit must be identified in the following space, together with a statement of the specified ground or grounds for the objection.

B. TO BE OFFERED BY THE DEFENDANT:

The authenticity and admissibility in evidence of these exhibits has been stipulated. If the authenticity and/or admissibility of any exhibit is objected to, the exhibit must be identified in the following space, together with a statement of the specified ground or grounds for the objection.

12. The following is a list and brief description of any charts, graphs, models, schematic diagrams, and similar objects which will be used in opening statements or closing statements, but which will not be offered in evidence:

With respect to the items listed above, objections are made to their use as follows:

If any other such objects are to be used by any party, they will be submitted to opposing counsel at least three days prior to trial. If there is then any objection to their use, the dispute will be submitted to the court at least one day prior to trial.

13. The following is a list of witnesses whom Plaintiff anticipates calling at the trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements are made with the trial judge prior to commencement of trial. The listing of a WILL CALL witness herein constitutes a representation, upon which opposing counsel may rely, that the witness will be present at trial in the absence of reasonable written notice to opposing counsel to the contrary. The listing of a MAY CALL witness constitutes a representation that counsel reasonably expects to call the witness at trial, but is not bound to do so.

<u>NAME</u>	<u>INDICATE: WILL/MAY CALL</u>	<u>BUS.ADDRESS &amp; TELEPHONE</u>	<u>RES.ADDRESS &amp; TELEPHONE</u>	<u>INDICATE: FACT/ LIAB./ EXPERT DAMAGE</u>
-------------	--	--	--	---

Will testify live:

Will testify by deposition:

Indicate whether the entire deposition, or only portions thereof, will be used. Not later than 20 days prior to trial counsel shall confer, for the purpose of resolving all controversies concerning depositions, including depositions recorded on video tape. All such controversies not so resolved shall be submitted to the trial judge not later than 10 days prior to trial. All objections not submitted within that time are waived.

The following is a list of witnesses whom Defendant anticipates calling at the trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements are made with the trial judge prior to commencement of trial. The listing of a WILL CALL witness herein constitutes a representation, upon which opposing counsel may rely, that the witness will be present at trial in the absence of reasonable written notice to opposing counsel to the contrary. The listing of a MAY CALL witness constitutes a representation that counsel reasonably expects to call the witness at trial, but is not bound to do so.

<u>NAME</u>	INDICATE: <u>WILL/MAY</u> <u>CALL</u>	<u>BUS.ADDRESS</u> <u>&amp; TELEPHONE</u>	<u>RES.ADDRESS</u> <u>&amp; TELEPHONE</u>	INDICATE: <u>FACT/ LIAB./</u> <u>EXPERT DAMAGE</u>
-------------	---	--	--	--

Will testify live:

Will testify by deposition:

Indicate whether the entire deposition, or only portions thereof, will be used. Not later than 20 days prior to trial counsel shall confer, for the purpose of resolving all controversies concerning depositions, including depositions recorded on video tape. All such controversies not so resolved shall be submitted to the trial judge not later than 10 days prior to trial. All objections not submitted within that time are waived.

14. This (is) (is not) a jury case.

15. Counsel suggest the following additional matters to aid in the disposition of the action:

16. Counsel estimates the length of the trial will be \_\_\_\_ days.

17. As indicated by paragraph 1, this pretrial order has been formulated (1) at a pretrial conference before the United States Magistrate Judge, notice of which was duly served upon all parties, and at which the parties attended as is shown above, or (2) the final pretrial conference having been dispensed with by the Magistrate Judge, as a result of conference between the parties. Reasonable opportunity has been afforded for corrections or additions prior to signing. This order will control the course of the trial, as provided by Rule 16, Federal Rules of Civil Procedure, and it may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.

THIS, the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

\_\_\_\_\_  
Attorney for Plaintiff

---

Attorney for Defendant

Entry of the above Pretrial Order recommended, this the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_

---

UNITED STATES MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT**  
\_\_\_\_\_**DISTRICT OF MISSISSIPPI**  
\_\_\_\_\_**DIVISION**

PLAINTIFF

v.

No. \_\_\_\_\_

DEFENDANT

**RECEIPT OF SEIZED PROPERTY**

On behalf of all owners, charters and cargo interest, receipt is acknowledged of the delivery of

\_\_\_\_\_  
(Name of vessel or description of property arrested; her engine, tackle, etc., if a vessel)

from \_\_\_\_\_

(identify custodian)

this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_, at \_\_\_\_:\_\_\_\_ hours, CST (or CDT) without prejudice.

\_\_\_\_\_  
(Signature of receiving person)

\_\_\_\_\_  
(Job Title)

**UNITED STATES DISTRICT COURT**  
\_\_\_\_\_**DISTRICT OF MISSISSIPPI**  
\_\_\_\_\_**DIVISION**

PLAINTIFF

v.

No. \_\_\_\_\_

DEFENDANT

**GOOD FAITH CERTIFICATE**

All counsel in this case hereby certify that they have conferred in good faith in an effort to resolve the issues in question and it is necessary to file a motion entitled:\_\_\_\_\_.

Counsel further certify:

\_\_\_(1) The filed motion is unopposed by all parties.

\_\_\_(2) The filed motion is unopposed by \_\_\_\_\_.

\_\_\_(3) The filed motion is opposed by \_\_\_\_\_.

\_\_\_(4) The parties agree that the reply and rebuttal to the filed motion shall be submitted to the Magistrate

Judge in accordance with the time limitations set forth in Uniform Local Rule 7.2.

This the \_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed name & Bar no.) Attorney for Plaintiff

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed name & Bar no.) Attorney for Defendant

UNITED STATES DISTRICT COURT  
\_\_\_\_\_  
DISTRICT OF MISSISSIPPI  
\_\_\_\_\_  
DIVISION

PLAINTIFF

v

.No. \_\_\_\_\_

DEFENDANT

UNIFORM LOCAL RULE 26.1 VIOLATION ORDER

PARTY SANCTIONED (PLAINTIFF\_\_ DEFENDANT\_\_ 3<sup>RD</sup> PARTY\_\_)AND COUNSEL

**VIOLATION (8)**

- \_\_\_\_ Untimely service of initial disclosure
- \_\_\_\_ Incomplete service of initial disclosure
- \_\_\_\_ Failure to file notice of service of disclosure
- \_\_\_\_ Failure to provide complete privilege log
- \_\_\_\_ Failure to conduct early meeting of counsel
- \_\_\_\_ Failure to prepare proposed case management plan and schedule
- \_\_\_\_ Untimely submission of settlement memorandum
- \_\_\_\_ Submission of inadequate settlement memorandum
- \_\_\_\_ Failure to be prepared for meaningful settlement discussions  
or have party or representative with settlement authority  
present or available by phone at case management conference
- \_\_\_\_ Untimely designation of expert witnesses
- \_\_\_\_ Incomplete disclosure of expert material
- \_\_\_\_ Failure to timely supplement pre-discovery disclosure

- \_\_\_\_\_ Failure to timely submit stay order when remand or qualified immunity motion filed
- \_\_\_\_\_ Failure to timely submit order lifting stay, if appropriate, after ruling on remand or qualified immunity motion
- \_\_\_\_\_ Failure to timely submit Case Status Report
- \_\_\_\_\_ Party sanctioned shall fully comply with the violated Uniform Local Rule 26.1 provision(s) within \_\_\_\_\_ Days.
- \_\_\_\_\_ Discovery by the party sanctioned is stayed pending compliance with violated Uniform Local Rule 26.1 provision(s).

**MONETARY SANCTION(S)**

- \_\_\_\_\_ A court sanction of fifty dollars (\$50.00) is imposed on party sanctioned for each of the above checked violation(s). Additional sanctions for flagrant violation \$\_\_\_\_\_. A total sanction in the amount of \$\_\_\_\_\_ shall be paid to the U.S. District Court Library Fund for this District.
- \_\_\_\_\_ Party sanctioned shall pay attorney fees and/or cost to opposing counsel in the amount of \$ \_\_\_\_\_.

**OTHER SANCTIONS**

- \_\_\_\_\_ Party sanctioned shall not be permitted to use as evidence at trial, at a hearing or on a motion any witness or information not disclosed.
- \_\_\_\_\_ The jury shall be advised of the disclosure violation.
- \_\_\_\_\_ Party sanctioned has waived \_\_\_\_\_ (attorney/client, work product, medical) privilege for failure to properly disclose and present complete privilege log. The waiver of medical privilege is for all medical records and allows ex parte communication with physicians and medical providers.
- \_\_\_\_\_ Party sanctioned expert(s) \_\_\_\_\_  
\_\_\_\_\_ may be deposed forthwith at the expense of the party in violation of the Case Management Plan.
- \_\_\_\_\_ Party sanctioned expert(s) \_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_ shall be stricken and not allowed to testify at trial, at a hearing or on a motion.

\_\_\_\_\_ Party sanctioned is directed to show cause within thirty (30) days why the court should not issue a censure or reprimand for failure to comply with Uniform Local Rule 26.1

**SO ORDERED**, this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE